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UNGARETTI & HARRIS LLP			EXAMINER	
INTELLECTUAL PROPERTY GROUP - PATENTS			SAGER, MARK ALAN	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/663,398	JOHNSON, BRADLEY W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Sager	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on amdt/remarks rec'd 4/4/08.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-2, 5-34 and 37-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-2,5-34 and 37-46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

***Claim Rejections - 35 USC § 103***

1. Claims 1-2, 5-34 and 37-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karmarkar (6508709) in view of Jarvis (6890255). This holding is maintained from prior action for cited claims, as amended. Response to Applicant remark regarding patentability of invention is provided below and incorporated herein.

As best understood with broadest reasonable interpretation of claim language, Karmarkar discloses a gaming device (abstract, 1:66-3:57, figs. 1-17) including a plurality of separate networked game sources each game source being configured to capture and transmit at least one game being played on at least one physical game table or plurality of capturing means for capturing a plurality of games being played on a plurality of physical game tables such as a plurality of video cameras configured to capture images of live games, further at least one transmitting means for transmitting the plurality of games to at least one display means displaying the plurality of games to a player, wherein each game source comprises at least one video camera, the video camera being configured to capture images of a live game or wherein each game source comprises recorded games stored in a server, and the gaming device further comprises at least one video processor, the video processor being configured to provide playback of the recorded games, a recording means for recording a plurality of games and a processing means configured to provide playback of recorded games, wherein the game source provides games or capturing means captures games from a group consisting of roulette, craps, blackjack, poker, keno, pai gow, baccarat, and bingo or provides at least one table game, (abstract, 1:66-3:57, 5:42-7:57, 8:21-28, 9:38-10:7, 11:39-67, 17:55-58, 18:58-19:5, 20:18-37, figs. 1-17, ref 20, 22, 26, 28, 32, 34), at least one player interface or a means for interfacing the

plurality of games to be playable at a single time (abstract, 1:66-3:57, 16:45-17:16, 17:33-21:45, figs. 1-17, esp. 1-13, refs. 46, 54) in communication with the plurality of networked game sources, the player interface comprising a display device and an input device, the player interface being adapted to receive the at least one game from the plurality of separate networked game sources, display the at least one game to a player, and allow the player to play the at least one game, wherein the player may place a wager on the at least one game and wherein the player may play the plurality of games at a single time, further comprising an input means for allowing a player to place a wager (abstract, 1:66-3:57, 7:58-8:47, 11:39-13:48, 14:54-15:20, 115:49-17:15, 17:44-18:30, 18:49-21:45, 22:8-18, figs. 1-17), wherein the player is allowed to apply one set of wagers to a plurality of games (17:55-58, 18:5-12), wherein the game source and the display device or the transmitting means and the display are connected using wireless communications (7:43-47, 7:58-8:47, 12:1-19, figs. 1-8), wherein the player interface or means for interfacing is configured to provide gaming instructions to the player (1:66-3:57, esp. 3:14-26, 20:62-67), wherein the processing means generates random winning numbers (13:49-63), a method for playing multiple games simultaneously (abstract, 1:66-3:57, 5:42-7:57, 8:21-28, 9:38-10:7, 11:39-67, 16:45-17:16, 17:33-21:45, figs. 1-17) including providing at least one game source, the game source being adapted to provide a plurality of games to a player, providing an input device, the input device being adapted to allow the player to enter wager information, allowing the player to select a plurality of games to play; allowing the player to play the plurality of games at a single time (supra). Also, Karmarkar includes providing at least one game source adapted to provide a plurality of roulette games to a player (as from either casino has a plurality of live

roulette game tables as conventional or a plurality of pre-recorded/stored live roulette game table play or a plurality of players playing at either a single/plurality of live roulette game tables or a combination thereof, sic), providing a roulette wagering field adapted to present the player available wagering schemes usable for playing the plurality of roulette games (19:36-41, 53-55, 20:18-33, 21:31-45, 22:35-26:46, figs. 1-17, ref. 460-466, implicit for wagering on multiple live table games including multiple roulette games at least as noted claims of Karmarkar are not limited to diverse/dissimilar games and example includes similar games), providing an input device adapted to allow the player to enter wager information including touch screen (figs. 1-17, esp. 9-13, ref 420), allowing player to select a plurality of roulette or other table/gaming machine games to play (17:33-18:30, 20:18-33, ref 460-466), allowing the player to create at least one set of wagers (sic, implicit), allowing the player to play a plurality of roulette games with the set of wagers at a single time (18:5-12, fig. 1-13, implicit), providing gaming lessons to player (sic), allowing the player to apply varying sets of wagers to the plurality of games (16:8-17:15, 17:33-18:30, 18:58-20:29, 20:38-21:45, :22:8-18, 22:35-26:35, fig. 1-13, implicit due to configured to permit placing wager on any game activity at any physical game table or game machine in complex mode or wager for/against any player at any table or game machine while also adapted to permit placing multiple wagers (17:55-58, 19:53-54, 20:18-33, 22:35-53), allowing the player to place a progressive wager and determining a progressive game outcome based on outcomes from the plurality of games such as a progressive win outcome in one of the plurality of games where the prize is a progressive amount or a pre-determined amount (20:38-45, 22:8-18, implicit).  
Karmarkar permits wagering on multiple simultaneous similar or dissimilar/diverse

games that implicitly includes a plurality of live roulette table games transmitted from at least one game source or a plurality of game sources (supra). Further, Karmarkar discloses a gaming system including a plurality of networked roulette game sources, each game source being configured to transmit at least one game, at least one roulette game source comprising a live game source comprising a game being played on at least one physical roulette game, each game having a game outcome, a gaming device (ref 46, 54) including: a player input device allowing a player to place a wager on at least one of the games such as a touch screen (3:44-46, 16:8-13), a player display allowing a plurality of games to be simultaneously presented to the player (fig. 13), a user interface in communication with the gaming device and configured to transmit data to the gaming device (figs. 1-13), a table management system in communication with the user interface, the table management system storing data received from the user interface (23:1-26:46, figs. 1-17, ref. 26, 28, 32, 34, 42, 46, 50, 54), a ball reader proximate the physical game table and transmitting game data to a first processor (13:32-36, ref 60, 70, 80, 152, 154, 156), a first video processor in communication with the live game source, the user interface, and the ball reader, the first video processor receiving data from the live game source, the first video processor configured to compress the live game source data and to transmit the compressed live game source data (23:1-26:46, figs. 1-17, ref, 26, 28, 32, 34, 42, 50, 54), a video server in communication with the plurality of game sources and configured to combine data from the plurality of game sources into a single data stream (refs. 26, 28, 32, 34, 50), a second video processor in communication with the video server, receiving the compressed data from the video server, decompressing the compressed data, and transmitting the decompressed data to the player display; wherein

the player may place a wager on the at least one game or on each of the plurality of networked game sources and make a progressive contribution to be added to a progressive jackpot (22:8-18) wherein the player may play the plurality of games at a single time (fig. 1-17 ref. 46, 54), further comprising a video recording device such as a video camera, the video recording device recording the live game source and transmitting the recording to the first video processor (refs. 26, 28, 32, 34, 50). Regarding a ball reader proximate physical game table and transmitting game data to a first video processor, Karmarkar discusses a plurality of video cameras (20:36-37, ref. 60) proximate physical game tables where real time image processing techniques to generate encoded video of the progress and outcome of each of the ongoing games is implicitly, for a roulette table game, a ball reader at each of the plurality physical roulette game tables in a casino (13:32-36, 19:36-41, 21:31-45). Since Karmarkar discloses an automated system, device and method that permits remote progressive gaming across a plurality of networked casinos (20:38-45, 22:8-18), Karmarkar implicitly includes an interface card such as on a motherboard or within processor of gaming device or host in communication with display device configured to detect progressive bet and winning and a controller (such as in progressive game controller that tracks/accumulates and determines wins) in communication with interface card configured to credit progressive contributions and determine progressive amount. As evidence only that progressive jackpot play, as claimed was common knowledge or hornbook engineering that Karmarkar was not compelled to further discuss, see Adams (abstract, 2:16-62, 7:63-12:67, figs. 1-7, esp. 1, 3-4 and 7) or Lamle (abstract, 1:45-2:10, 2:23-3:16, 4:1-66, figs 1A-1B) or Orenstein (abstract, 1:43-2:51, 5:23-6:7, figs. 1-7) each disclose an interface card in communication

with the display device, the interface card being configured to detect progressive bet and progressive winning, and a controller in communication with interface card, the controller being configured to credit progressive contributions and determine progressive amount. Thus, Karmarkar implicitly includes an interface card in communication with the display device, the interface card being configured to detect progressive bet and progressive winning, and a controller in communication with interface card, the controller being configured to credit progressive contributions and determine progressive amount. Therefore, Karmarkar discloses all features/steps (sic) including a progressive jackpot controller in communication with each gaming device, the gaming controller configured to receive a progressive contribution from any of the plurality of gaming devices and award a progressive jackpot to one of the plurality of gaming devices upon the occurrence of a randomly occurring event wherein the winning event is dependent on the game outcome that provides either predetermined, random or progressive jackpot prize (22:8-18, implicit for a progressive jackpot controller for communication between remote player station 46, 54 accumulating progressive jackpot). As stated above, Karmarkar includes allowing a remote player to make a wager that provides a progressive contribution to be added to a progressive jackpot (22:8-18) at least since there is no indication that a progressive jackpot award opportunity is free and thus, a player that desires to participate makes a side/secondary wager to participate in the progressive jackpot game where the side/secondary wager contributes to progressive jackpot, as conventional (as evidence see Adams, Lamle or Orenstein). Alternatively, the office interprets Karmarkar to include wager contributions to progressive jackpot as stated above; however, where Karmarkar funds progressive jackpot from a revenue source that

does not include contributions from player wagers and thus Karmarkar lacks to receive a progressive contribution from any of the plurality of gaming devices, to make a progressive contribution to be added to a progressive jackpot and a progressive jackpot contribution [to a progressive jackpot], in consideration that a casino is a profit driven business that does not award progressive jackpot for free without player contributions as suggested by Jarvis (9:53-65), it would have been obvious to apply the process to receive a progressive contribution from any of the plurality of gaming devices, to make a progressive contribution to be added to a progressive jackpot as taught by Jarvis to improve the gaming system/device and method of Karmarkar for the predictable result of funding progressive jackpot from player contributions. Applicant admits Jarvis provides a progressive contribution to a progressive jackpot in remarks, page 8.

However, Karmarkar lacks 'of at least two of the plurality of game sources' (clm 1), 'of the plurality of games' (clm 8), 'of at least two of the plurality of roulette games played' (clm 20), 'of at least two of the plurality of games played' (clm 30), 'at least two of the plurality of games' (clm 33). However, wagering on an event across multiple games as claimed is known such as multiple roulette wheel wagering for a number to be matched on multiple roulette wheels including same number to appear a predetermined number of times on multiple roulette wheels as taught by Jarvis (3:41-60, 4:33-36, 9:53-65) that thereby teaches/suggests 'of at least two of the plurality of game sources', 'of the plurality of games', 'of at least two of the plurality of roulette games played', 'of at least two of the plurality of games played' and 'at least two of the plurality of games'. Also, Jarvis is relevant prior art at least for being within field of applicant's endeavor or for being reasonably pertinent to the particular problem with which the applicant was

concerned. Thus, it would have been obvious to an artisan at a time prior to the invention to add 'of at least two of the plurality of game sources', 'of the plurality of games', 'of at least two of the plurality of roulette games played', 'of at least two of the plurality of games played', 'at least two of the plurality of games' as taught by Jarvis to Karmarkar to provide a special payout for repeat selection of a number on multiple different wheels. Essentially, the claimed invention including awarding a prize based on outcome across a plurality of games played fails to patentably distinguish over combination of Karmarkar and Jarvis when taken as a whole at a time prior to the invention which suggests to an artisan the claimed gaming system/device, and method.

2. Claims 1-2, 5-34, and 37-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karmarkar (6508709) in view of Lamle (5048833). Discussion above regarding Karmarkar is incorporated herein. Alternatively, where each gaming source is a different gaming device that is not in same gaming device, Karmarkar discloses gaming system/device and method comprising all claimed features/steps (supra) except 'of at least two of the plurality of game sources' (clm 1), 'of the plurality of games' (clm 8), 'of at least two of the plurality of roulette games played' (clm 20), 'of at least two of the plurality of games played' (clm 30), 'at least two of the plurality of games' (clm 33). However, wagering on an event across multiple games sources where each game source is a different gaming device as claimed is known such as multiple roulette wheel wagering for a predetermined set of numbers to be matched on multiple roulette wheels as taught by Lamle (abstract, 1:45-2:10, 2:23-61, 3:48-4:66). Lamle also permits applying the teaching of a particular predetermined outcome across multiple separate remote sources for a progressive jackpot award to any game in which a bet is placed on

either a number, a symbol or an event which can be represented by a number, symbol or some other indicia (4:56-67). Thus, it would have been obvious to an artisan at a time prior to the invention to apply the process of 'of at least two of the plurality of game sources', 'of the plurality of games', 'of at least two of the plurality of roulette games played', 'of at least two of the plurality of games played' and 'at least two of the plurality of games' as taught by Lamle to improve the gaming system/device and method of Karmarkar for the predictable result of permitting a complex wager such as matching a particular predetermined game outcome over multiple separate game sources such as different separate roulette wheels, or other game. Alternatively, as stated above, the office interprets Karmarkar to include wager contributions to progressive jackpot as stated above; however, where Karmarkar funds progressive jackpot from a revenue source that does not include contributions from player wagers, then Karmarkar lacks to receive a progressive contribution from any of the plurality of gaming devices, to make a progressive contribution to be added to a progressive jackpot and a progressive jackpot contribution [to a progressive jackpot]. Lamle states there is an increase in jackpot payout value each time a game is played which since each game requires a wager, a portion of the wager contributes to the progressive jackpot (1:45-2:10). In consideration that a casino is a profit driven business that does not award progressive jackpot without player contribution, it would have been obvious to apply the process to receive a progressive contribution from any of the plurality of gaming devices, to make a progressive contribution to be added to a progressive jackpot as taught by Lamle to improve the gaming system/device and method of Karmarkar for the predictable result of funding progressive jackpot from player wager contribution.

***Response to Arguments***

3. Applicant's arguments filed 4/4/08 have been fully considered but they are not persuasive. Applicant did not refute the evidence cited in prior action regarding teachings by Karmarkar including regarding video capture of multiple remote separate game outcomes including roulette or Karmarkar providing a progressive jackpot award.

Regarding Applicant's remark on page 8 that Karmarkar does not disclose a plurality of gaming devices that provide a progressive contribution to the progressive jackpot, the Office disagrees since when Karmarkar is read as a whole by a POSITA, it is clear that Karmarkar implicitly includes a plurality of gaming devices that provide a progressive contribution to the progressive jackpot. It is conventional that a progressive jackpot of a casino game to be funded at least in part from wager contributions (as evidence only of progressive jackpot contribution from wagers see aforementioned either Adams, Lamle, or Orenstein) at least since a casino is a profit oriented business and although a casino may provide bonus payouts a casino does not award a progressive jackpot for free, but yet the Applicant did not present any evidence that the progressive jackpot in Karmarkar is funded solely by casino or third party funds such that progressive jackpot is not funded in part by player wager. However, alternatively, providing contributions from player wager to a progressive jackpot is known and at least deemed obvious. Applicant admits Jarvis provides a progressive contribution to a progressive jackpot on page 8, thus the combination of Karmarkar and Jarvis includes providing contributions from player wagers to a progressive jackpot (sic).

Regarding Applicants remark that Karmarkar does not disclose a system that bases a prize on the outcome of multiple games from multiple, separate sources, the

Office agrees and notes the holding was not anticipation but rather obviousness where the combination of cited references is deemed to render claimed invention unpatentable.

Regarding Applicants remark that Jarvis does not disclose basing a prize from multiple, separate sources since Applicant views wheels of Jarvis as same gaming unit, the Office disagrees. Although Applicant may be their own lexicographer, the Applicant did not act on their behalf as a lexicographer in this case to provide a definition that precludes the combination of Karmarkar and Jarvis and notes that both the claim language and Applicants disclosure regarding game source includes each wheel of Jarvis being a separate remote networked game source at least since the instant '398 disclosure states in paragraph 99, that the game sources may be live games, including those played on actual game tables, may be prerecorded games, animated games, simulated games among other source and that the invention is not limited to any particular game source or sources. Thus game source as claimed/disclosed includes each separate wheel (figs 1-9, refs. 14-18 in Jarvis) as a separate networked game source.

Regarding Applicant's assertion that the combination of Karmarkar with Jarvis would result in a system that would no longer work for its intended purpose, the Office disagrees. In response to applicant's argument that placing a plurality of roulette wheels directly in the gaming system of Karmarkar is counter to Karmarkar's objective (remark page 8-9), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA

1981). The standard of patentability remains as what the combination of references when taken as a whole at a time prior to the invention suggests to an artisan. In this case, when the combination of Karmarkar with Jarvis is taken as a whole at a time prior to the invention, the combination suggests to an artisan the claimed gaming system/device and method that accepts a player wager that provides a progressive contribution to a progressive jackpot and award a progressive jackpot to one of the plurality of gaming devices upon the occurrence of a randomly occurring event that is dependent on the game outcome of at least two of the plurality of game sources, such that for those instances where casino include Jarvis machines on their floor, a remote player using a remote player station (46, 54) of Karmarkar system may place a wager that provides a progressive contribution to a progressive jackpot on the separate networked roulette game sources as shown in Jarvis as each separate wheel in Jarvis being a separate remote source for a same number to appear a predetermined number of times on multiple roulette wheels (Jarvis, abstract, 5:40-49, 6:31-7:58, 9:53-65). Thus, contrary to Applicant assertion that consideration of Jarvis teachings (including the multiple wheels used as each an outcome event in a progressive game for a progressive jackpot) is not counter to teachings or objective of Karmarkar. Further, Karmarkar permits complex wagers (21:31-44); thus, a player using Karmarkar gaming system/device and method who desires to place a more complex wager may place a progressive contribution to a progressive jackpot on same number on multiple wheel sources as suggested by Jarvis.

4. Applicant's arguments with respect to claims 1-2, 5-34 and 37-43 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the

advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Sager/  
Primary Examiner, Art Unit 3714